Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

ALICE CLISSURAS,

Petitioner,

v.

CONCORD VILLAGE OWNERS INC. and
DOUGLAS ELLIMAN-GIBBONS & IVES INC.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF THE
STATE OF NEW YORK

PETITION FOR WRIT OF CERTIORARI AND APPENDIX IN SUPPORT

ALICE CLISSURAS
Petitioner pro se
215 Adams Street
Brooklyn, NY 11201
(718)875-6171

QUESTIONS PRESENTED FOR REVIEW

1. Did one egregious Order of Court of Appeals, six egregious Orders of Appellate Division, and Four egregious Orders of Supreme Court deprive Appellant of due process protection from erroneous decisions and Proceedings.

2. Did the Courts improperly overlook default and fraud in the face of incontrovertible proof of defendants' failure to appear and answer.

3. Did the Courts improperly overlook Appellant's prima-facie case.

4. Did the failure of the Courts to determine plaintiff's Motions and Appeals and to issue unsigned Orders result in void Orders.

5. Did the failure of Appellate Division to correct errors of Supreme Court, Kings County and the failure of the Court of Appeals to correct the errors of Appellate Division and Supreme Court deprive plaintiff of her Constitutional rights to due process and equal protection of the laws and display its bias favoring defendants.

ALL PARTIES AND THEIR ATTORNEYS

For Plaintiff-Appellant:

ALICE CLISSURAS
Petitioner pro se
215 Adams Street
Brooklyn, NY 11201
(718)875-6171

J.D. Degree, no license

N.Y.S.Ct. of Ap., Mo.No.423(2004)

App.Div.2d, Case Nos. 2001-08946, 2002-02114

Kings Co. Clerk's Index No.6067/91

For Defendants-Respondents:

KREZ & PEISNER
Attorneys for Respondents, Concord Village Owners Inc. and Douglas Elliman-Gibbons & Ives Inc.
Kathi Peisner, Esq.
225 Broadway
New York, NY 10007
(212)964-5000

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IN THE
SUPREME COURT OF THE UNITED STATES

ALICE CLISSURAS v. CONCORD VILLAGE OWNERS INC, et al.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF
THE STATE OF NEW YORK

PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE, THE CHIEF JUSTICE, and ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Petitioner, Alice Clissuras, respectfully petitions for a writ of certiorari to review:

OPINIONS, ORDERS, AND JUDGMENTS

1. As to the Court of Appeals of the State of New York:

a. June 29, 2004 DECISION and ORDER, by which appellant's as-of-right appeal was DISMISSED as untimely by sua sponte examination, without signed order, opinion, findings and conclusions; and

b. By which DECISION, the Court did not determine the Appeal, did not identify the untimeliness upon which the Appeal was dismissed, did not state why the Appellate Division letters did not constitute an appealable order or judgment, and did not identify the "said motion for other relief" which did not meet the Court's jurisdictional standards. (Appendix to this Petition, A.1-3)

2. As to the Supreme Court of the State of New York, Appellate Division, Second Judicial Department, to review:

a. November 18, 2002 DECISION & ORDER, DISMISSING, Appeal from four Supreme Court Kings County Orders, without determining the Appeal, without a signature, and by converting, without a basis, appellant's Kings County Motions to vacate to motions to reargue, the denial of which is unappealable. (A. 4-5)

b. January 27, 2003 DECISION & ORDER ON MOTION, DISMISSING Appellant's Motion, without, inter alia, determining Appeal and by converting Motion to a request for "leave to reargue." (A.6)

c. March 28, 2003 DECISION & ORDER ON MOTION, DISMISSING, without signature, Appellant's Motion for order determining Appeal and Motion to Vacate, both of which remain undetermined. (A.7-8)

d. January 8, 2004 Clerk's Office letter, without signature informing Appellant: "The Court declines to grant permission" to make any further motions without Court's permission and papers are returned. (A.9)

e. February 18 and 23, 2004 Clerk's Office letters, informing Appellant that Motion "was rejected by this Court" due to failure to obtain leave. (A.10, 11)

3. As to the Supreme Court of the State of New York, County of Kings, to review:

a. November 28, 2000 Order, DENYING plaintiff's Motion for default judgment and for relief from defendants' false statements, and GRANTING Cross-motion enjoining plaintiff from re-litigating resolved issues. (A.12-13)

b. December 11, 2000 ORDER, DENYING plaintiff's Motion for entry of granted default judgment and GRANTING Cross-motion prohibiting plaintiff from re-litigating previous issues. (A.14-18)

c. April 23, 2001 ORDER, DENYING plaintiff's Motion for order vacating November 8, 2000 and December 11, 2000 Orders and GRANTING Cross-motion for sanctions against plaintiff. (A.19-21)

d. August 27, 2001 ORDER, DENYING plaintiff's Motion to vacate the April 23, 2001 Order,

DENYING Cross-motion for order dismissing the Complaint, and GRANTING Cross-motion for sanctions against plaintiff. (A.22-24)

JURISDICTION

The June 29, 2004 DECISION and ORDER, of the Court of Appeals of the State of New York, whose Order is herein sought to be reviewed, is reprinted in the Appendix to this Petition. (A.1-3)

Timely Motion for vacatur of the June 29, 2004 Order was filed and served July 19, 2004, which Order remains without decision, to present.

This Court's jurisdiction is invoked pursuant to 28 U.S.C. §1254(1); S. Ct. Rule 10(a); and as of right, U.S.Constitution, Amendments V and XIV for due process and equal protection of the laws and Amendment VII for right to trial.

CONSTITUTIONAL PROVISIONS, STATUTES, and REGULATIONS

The United States Constitution, Amendment V, provides in pertinent part:

"... nor shall any person ... be deprived of life, liberty, or property, without due process of law ...."

Amendment VII of the Constitution provides:

"In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved ...."

Amendment XIV of the Constitution, §1, provides:

"nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

CIVIL PRACTICE LAW and RULES of the State of New York provide in pertinent part:

CPLR§3011: "There shall be a complaint and an answer."

CPLR§3012: "Service of an answer or reply shall be made within twenty days after service of the pleading to which it responds."

CPLR§3020(a): "where a pleading is verified, each subsequent pleading shall also be verified ...."

CPLR§3020(d)(1): "If the party is a domestic corporation,

the verification shall be made by an officer thereof ...."

CPLR§3021: "The affidavit of verification must be to the effect that the pleading is true to the knowledge of the deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true."

CPLR§3022: "A defectively verified pleading shall be treated as an unverified pleading. Where a pleading is served without sufficient verification in a case where the adverse party is entitled to a verified pleading, he may treat it as a nullity ...."

CPLR§3211(b): "A party may move for judgment dismissing one or more defenses, on the ground that a defense is not stated or has no merit."

CPLRR5015(a): "On motion. The court which rendered a judgment or order may relieve a party from it upon such terms as may be just ... upon the ground of: ... 3. fraud misrepresentation, or other misconduct of an adverse party; or ...."

New York State Law of Torts includes in relevant part: "fraud, misrepresentation, concealment, non-disclosure, prima facie tort ...."

STATEMENT OF THE CASE

Petitioner, Alice Clissuras, pro se, has been a resident of Concord Village since 1970, continuously, in the County of Kings, and is a tenant-shareholder of her residential apartment.

Respondent Concord Village Owners Inc. (herein "Concord Village") is the Apartment Corporation and functions within the parameters of its By-Laws.

Respondent Douglas Elliman-Gibbons & Ives Inc. (herein "Douglas Elliman") was Managing Agent of Concord Village from 1980 to 1992 and has currently returned as "Douglas Elliman Property Manag" as of May 1, 2004.

At this point, Petitioner repeats and realleges the entire Plaintiff-Appellant's Brief and Appendix on this Appeal to Appellate Division, Second Department, dated March 8, 2002, as though fully stated and reprinted here.

The Complaint in this action was served and filed February 19, 1991, fourteen years ago. By the Complaint, a prima facie case was set forth for four causes of action: bodily injury,

property damage, breach of fiducial duty and harassment.

(See 3/8/02 Appendix to App. Div.,2d, Complaint, pp.20-27; Answer, pp.28-31.)

Defendants served four Answers, on or about February 24, 1991; April 3, 1991; March 11, 1992; and July 28, 1992. Each of the four verifications is defective.

The verification to the first Answer is a blank form and devoid of legal effect. (A.31)

The second Answer is verified by an employee of defendants who is not an officer as required by CPLR 3020 (d)(1); it is served out of time on April 3, 1991, past the March 11, 1991 due date; and the language is legally insufficient for matters alleged on information and belief, pursuant to CPLR 3021, which requires attestation of the truth of such matters. The allegations in defendants' Answer are made entirely on information and belief and are thus void. (A.32)

The verification to the third Answer is made by an officer of Concord Village who does not possess the qualifications for the office, pursuant to

the Concord Village By-Laws; the language remains legally insufficient; and it is served out of time on March 11, 1992, one year past the due date. (A.33)

The verification to the fourth Answer is made by the same officer of Concord Village, who still does not qualify for office; and it was received by plaintiff July 28, 1992, sixteen months past the due date. The language was corrected, as required. (A.34)

The defendants, Concord Village and Douglas Elliman, have not appeared in this action, from service of Complaint to present. The defendants have not verified any of their attorneys' responses and have not proffered any plaintiff records.

The defendants' attorneys have not served a duly verified Answer and have improperly avoided joinder of issue for fourteen years, by which justice has been obstructed and Constitutional due process and equal protection of the laws have been violated for the same fourteen years.

The defendants' failure to respond to and to meritoriously defend

against plaintiff's prima facie case means that the defendants are subject to admission of the facts and issues of this case and that plaintiff produced sufficient evidence to allow a ruling in plaintiff's favor, with cause for immediate dismissal of defendants, which dismissal took place in 1991, and the defendants did not have and do not have the right to continue in this action, by fact and by law.

SUPREME COURT, KINGS COUNTY:

Since a verified answer was not served by Defendants, by March 11, 1991, twenty days after service of Complaint, Supreme Court, Kings County, granted judgment by default in favor of plaintiff. However, the Order was not entered.

Following service of the second Answer, on April 3, 1991, a series of actions were taken which culminated in the issuance of Supreme Court, Kings County, February 19, 1992, Order, by which Supreme Court stated and ordered: that it "vacated a prior default of the defendant"(sic); that, in effect, there was no proof of the legal authority of the person who verified the answer to do

so; and that the Court ordered defendant (sic) to submit a verified answer by someone else, with proof of authority to do so. (A.27)

As to the second Answer, the Court did not have jurisdiction to vacate the prior default Order of the first-assigned Justice; and the Court did not rule on defendants' misrepresentations and a year's default.

Following service of the third Answer, on March 11, 1992, the Supreme Court, by its July 17, 1992 Order, denied plaintiff's Motion for default, without ruling on unauthorized verifier, no proof of authority, language insufficiency, and over a year's default. (A.29)

Following service of the fourth Answer, on July 28, 1992, the Supreme Court, by its January 5, 1993 Order, did not rule on unauthorized verifier and over seventeen-month default.

Over the years, to present, the defendants have made no attempt to join issue and to allow this action to proceed as a matter of course; and defendants have made no attempt to respond

to, to controvert, and to defend against the facts and issues of this action.

By the Complaint, plaintiff presents a complete prima facie case. Further, Plaintiff provided a breakdown of the damages set forth in the Complaint, as requested by the defendants' Insurer. The defendants' attorneys exchanged letters with plaintiff's physician. Defendants have at least three logged records of the causes of action, which occurred on the Concord Village premises.

The Insurer did not respond and the defendants did not respond and did not answer.

Over the years to present, following service of the fourth Answer, there were four assigned Justices, four sets of attorneys, and three Appeals.

The current Kings County Justice was assigned in the year 2000. The current attorneys for defendants, who are not of record, appeared in the year 2000, without notice and without credentials. The instant Appeal is the third Appeal, by which Appellant's Appeals were not determined.

APPELLATE DIVISION, SECOND DEPARTMENT:

For this Appeal, four, Supreme Court, Kings County Orders were taken to Appellate Division, Second, by Notice of Appeal, as of right: Orders dated April 23, 2001, August 27, 2001, November 28, 2000, and December 11, 2000. (A.12-24)

The four Orders clearly show that Petitioner presented her Motions with full support against Respondents' default, fraud, failure to defend, and failure to join issue.

Without responding to Petitioner's Motions, Respondents counter with cross-motions to sanction Petitioner for relitigating decided matters, without identifying the decided matters.

The lower Court similarly does not determine Petitioner's Motions; denies the Motions without opinion, without findings of fact and law and without a basis; and grants Respondents' cross-motions to sanction Petitioner for relitigating decided matters without identifying the matters.

The four Orders were taken to Appellate Division, 2d, which Court

issued six Orders, three of which are in the form of letters, and all of which are unsigned. The Review Court did not rule on default, did not rule on joinder of issue, and did not rule on respondents' fraud. The Court did not determine plaintiff's Appeal; instead, the Court converted plaintiff's Appeal from denial of Motions to vacate Supreme Court Orders to motions to reargue for this Appeal and concluded that denial of motion to reargue is not appealable.

Thus, Appellate Division, without determining plaintiff's Appeal and Motions to vacate, dismissed the Appeal from the four Supreme Court Orders without a basis for conversion of plaintiff's Motions and without a statement to justify charges of rearguing. (A.6-11)

The Appellate Division issuances are void. The Court overlooks fraud, default, and the defendants' failure to respond and defend, as does the Supreme Court.

Appellate Division, Supreme Court, and defendants use charges of rearguing as a defense against plaintiff's case, which it is not. The

question in this case is not whether plaintiff repetitiously keeps seeking the same relief; the question is whether any issue has been decided. Plaintiff seeks a determination of her Motions and Appeals.

In order for reargument to be sanctionable, a decided matter with specific evidentiary support must be identified, which was not done in this case, at both the Trial and Review Court Levels. See, Levy v. Carol Mgt. Corp., (260 AD2d 27)

Following the six Orders, Appellant filed a Motion, for, inter alia, a signed order with opinion and evidence of entry determining plaintiff's appeal and determining Appellant's Motion to vacate denial of Appeal, which Motion is appealable. The Clerk's Office returned Appellant's request for leave to make a motion, with the following letter-Orders: "The Court declines to grant permission." and the motion was rejected "by this court."

The Trial and Review Courts made manifest and plain errors by, inter alia, overlooking default and fraud, by

depriving plaintiff of her Constitutional civil rights to make a motion for determination of a motion and determination of an appeal, which have not been determined, by misusing re-argument as an affirmative defense to make motions and appeals not appealable, and by obstructing justice to delay the litigation and harass plaintiff.

COURT OF APPEALS OF THE STATE OF NEW YORK

Plaintiff-Appellant filed and served Notice of Appeal to the Court of Appeals, on March 19, 2004, by which six Appellate Division, 2d, Orders were brought up for review to the Court of Appeals for, inter alia, dismissal of Appellant's Appeal and Motion without determination, without a basis, and without a signature. (A.4-11)

Without meaningful notice of intent to dismiss Appellant's appeal sua sponte, the Court of Appeals, by an unsigned June 29, 2004 Order, dismissed, plaintiff's Appeal, in three sentences, sua sponte. (A.1)

The Court of Appeals dismissed Plaintiff's Appeal as taken from the Appellate Division orders as untimely;

The Court dismissed the Appeal as taken from letters of the Clerk's Office of the Appellate Division upon the ground that the letters do not constitute an order appealable to the Court; and

The Court dismissed Appellant's motion for other relief upon the ground that the Court does not have jurisdiction.

The dismissal Order does not determine appellant's Appeal; Appellate Division did not determine Appellant's Appeal; and Supreme Court did not determine plaintiff's Motions.

The Order is vague. Conclusions are stated without identifying the issues: which orders determine timeliness, which court-ordered letters are not appealable, and what is the other relief for which jurisdiction is lacking.

The Order does not include an opinion and decision. The Order is not signed by the Court pursuant to CPLRR 2219 and there is no evidence of entry.

Appellant moved to vacate the void Orders issued by Appellate Division, which motion was timely made and is appealable. No response.

Appellant moved to vacate this Court's June 29, 2004 dismissal of the Appeal, by timely Motion dated July 19, 2004. More than 60 days have elapsed and this Court has not issued an order. The Motion to Vacate is appealable.

The defendants have never affirmed joinder of issue and have never defended against or controverted a 14-year default.

Supreme Court, Appellate Division, and Court of Appeals have not addressed and have not ruled on 14 years of default and fraud.

There have been three Appeals to Appellate Division and not one signed Order.

The three stated Orders of this Court are obstructive of justice. Plaintiff is left with having to respond to inferences.

As to untimeliness, it may be argued that 30 days after entry have not

been reached as yet, since there is no evidence that any Order has been entered and since a docket has yet to be produced. It may be argued that misconduct and errors of the Courts in not determining appeals and Motions to vacate, in not signing an Order, in converting appellant's Appeals and Motions from vacating to reargument to make them unappealable, in not dismissing an obvious default in over fourteen years, in overlooking fourteen years of defendants' misrepresentations to avoid answering, in causing void Orders and using letters in lieu of Orders, in refusing to enter granted Motion, and in depriving plaintiff-appellant of meaningful hearings before the taking of rights or property, are all Court errors to be corrected on appeal.

Where there are errors and misconduct of the Courts, whereby the controlling laws and facts are disregarded, the errors must be addressed by an appellate court and corrected to avoid infringement of the due process rights of the affected party.

I. ONE EGREGIOUS ORDER OF COURT OF APPEALS, SIX EGREGIOUS ORDERS OF APPELLATE DIVISION AND FOUR EGREGIOUS ORDERS OF SUPREME COURT DEPRIVE APPELLANT OF DUE PROCESS PROTECTION FROM ERRONEOUS DECISIONS AND PROCEEDINGS

The main thrust of due process, as found in the United States Constitution, Amendment XIV, Section 1, is to provide protection in order to guard against inaccurate and erroneous decisions. The decisions of the United States Supreme Court, in the main, strongly emphasize that the purpose of safeguards is to protect against even the risk of an erroneous decision.

The Court of Appeals is a "law" court. As to facts, the Court of Appeals has held that it will review an exercise of discretion by the Appellate Division if that court has been guilty of a substantial abuse of discretion rising to the level of a question of law, such as the failure to weigh all factors entitled to judicial consideration. See Mozzarella Bldg. Co., Inc. v. Escort Builders, Inc., 39 N.Y.2d 820, 821 (1976).

The June 29, 2004 Court of Appeals Order of dismissal of Appeal and the six Orders of the Appellate Division (A.1, 4-11) are egregious Orders in that there are no findings, there is no opinion, there is no statement and determination of the Appeal and no statement or determination of Motions to Vacate. The failures of the Orders of the Court of Appeals and Appellate Division can be found in the absence of the subject areas of appellant's case and absence of the issues of default and fraud. One would never know by the Orders that the default and fraud continue for fourteen years, without any judicial consideration

The dismissals of both Courts do not relate to the facts.

There is no law that allows a default of fourteen years to continue.

II. THE COURTS IMPROPERLY OVERLOOK DEFAULT AND FRAUD IN THE FACE OF INCONTROVERTIBLE PROOF OF DEFENDANTS' FAILURE TO APPEAR AND ANSWER

Plaintiff-appellant is entitled to judgment by default in accordance with the applicable laws and facts.

As to default, the respondents violated the applicable Laws with impunity:

> CPLR §§3012 and 3020(a) for entitlement of a verified answer within twenty days after the service of the verified complaint;
>
> CPLR §3020(d)(1) for requirement that a corporate officer verify for a corporate party;
>
> CPLR §3021 for the requirement of specific language for a verification;
>
> CPLR §3022 for the right to move for default as remedy for defective verification;
>
> CPLR §3211(b) for the right to move for dismissal for failure to defend;
>
> CPLRR 5015(a)(3) for right to relief from Order based on misrepresentations of adverse party.

III. THE COURTS IMPROPERLY OVERLOOKED PLAINTIFF-APPELLANTS PRIMA-FACIE CASE

In plaintiff's case, service of a fourth answer is prima-facie evidence that the defects in verifications one, two, and three are inexcusable defects, since the Court below did not ignore the defects. If the defect in the verification of the first Answer had been an

irregularity, it would have been disregarded as a mistake, by discretionary power, and the case would have moved forward.

In Foley v. D'Agostino, 21 A.D. 2d 60, 248 N.Y.S. 121 (1964), the Court equates misrepresentations with prejudice to a party, thereby making misrepresentations inexcusable defects.

Prima-facie evidence, by definition, is evidence that is sufficient to establish given facts, which remain sufficient until rebutted or controverted:

> "It is rebutted when evidence contrary to the presumed fact sufficient to support a finding of its negative has been introduced. [N.Y.Adv. Comm. on Practice & Procedure, Second Prel.Rep.,N.Y.Leg.Doc. No.13, p.267(1958)]

When a pleading is due within twenty days, and it is served seventeen months later, clearly, a default has occurred. There is no law and no reasonable explanation to support such a default, that is why the Courts and the defendants have not presented any evidence contrary to the default

sufficient to support a finding controverting default, to date.

Similarly, when four Answers are served, clearly, there are inexcusable defects in each verification, which is why the Courts and the defendants have not presented any evidence contrary to the inexcusable defects sufficient to support a finding controverting four defectively verified Answers, to date.

Defendants-respondents have every right to formulate their argument and defense, as do the Courts, in any manner they deem appropriate. However, the defendants and the Courts are obliged to respond to and to counter the opposing arguments on the issues first in order to avoid a holding that the unrebutted opposing arguments are admitted as true, particularly where the issues concern misrepresentations.

The Courts denied plaintiff's Motions and Appeals for default judgment without addressing the default and the misrepresentations upon which the Motions and Appeals relied, as to all

of which silence, the Courts committed plain and manifest errors.

CONCLUSION

This case has lasted fourteen years and joinder of issue has yet to be reached.

The defendants have no right to continue in this action. The fourteen years of default have been willful on the part of defendants. All that the defendants had to do was to serve a verified Answer in March, 1991, which they did not do. After that, to avoid default, defendants were required to serve a duly verified Answer, to validate a reasonable excuse for delay, and to affirm and argue a meritorious defense, all of which the defendants did not do. (Brooks v. Inn at Saratoga, 188 A.D.2d 921.)

The defendants' right to continue ended 20 days following service of the Complaint, February 19, 1991. However, the Courts, acting outside of their authority, did not determine Motions and Appeals and overlooked violations of the laws and fraud.

The actions of the defendants and the Courts have resulted in deprivation of Plaintiff's due process rights and equal protection of the laws, concealment of known issues, and obstruction of justice, causing an extraordinary delay in this action.

The defendants mock the law, the legal system, and plaintiff, which mockery has become an inexcusable abuse.

This case is not about winning or losing, words which in plaintiff's opinion, are inappropriate as to the law. This case is not about damages, as to amount, which is only a symbol.

This case is about individual rights, which no one has the right to take.

Plaintiff respectfully requests that this Court grant the Petition for Writ of Certiorari and grant Judgment by Default to Plaintiff, according to Rule 10 of the Supreme Court of the United States.

Respectfully submitted,

ALICE CLISSURAS
215 Adams Street
Brooklyn, NY 11201

Petitioner pro se

SUPREME COURT OF THE UNITED STATES

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CLISSURAS v. CUNY, et al.,

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THE STATE OF NEW YORK
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the twenty-ninth day of June 2004

PRESENT, Hon. Judith S. Kaye
Chief Judge, Presiding.

Mo. No. 423

Alice Clissuras,

Appellant,

v.

Concord Village Owners, Inc. et al.,

Respondents.

The appellant having filed notice of appeal and a motion for other relief to the Court of Appeals in the above cause, papers having been submitted thereon and due deliberation having been thereupon had, it is

ORDERED, on the court's own motion, that the appeal, insofar as taken from the Appellate Division orders, be and the same hereby is dismissed, without costs, as untimely (CPLR 5513); and it is

ORDERED, that the appeal, insofar as taken from letters of the Clerk's Office of the Appellate Division, Second Department, be and the same hereby is dismissed, without costs, upon the ground that the letters do not constitute an order or judgement appealable to this Court (see CPLR 5512(a); NY Const, art VI, § 3) and it is

ORDERED, that the said motion for other relief be and the same hereby

is dismissed upon the ground that this Court does not have jurisdiction to entertain it (see, NY Const, art VI, § 3).

/S/ Stuart M. Cohen

Stuart M. Cohen
Clerk of the Court

State of New York

COURT OF APPEALS

Stuart M. Cohen
Clerk of the Court

Clerk's Office
Albany, New York 12207-1095

Decision June 29, 2004

Mo. No. 423
Alice Clissuras,

Appellant,

V.

Concord Village Owners, Inc.
et al.,

Respondents.

On the Court's own motion, appeal, insofar as taken from the Appellate Division orders, dismissed, without costs, as untimely (CPLR 5513), and appeal, insofar as taken from letters of the Clerk's Office of the Appellate Division, Second Department, dismissed, without costs, upon the ground that the letters do not constitute an order or judgment appealable to this Court (see, CPLR 5512(a), 5601; NY Const, art VI, § 3). Motion for other relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (see, NY Const, art VI, § 3).

SUPREME COURT OF THE STATE OF NEW YORK

APPELLATE DIVISION:
SECOND JUDICIAL DEPARTMENT

1833f
O/hu

Argued-October 21, 2002

_____AD2d_____

ANITA R. FLORIO, J.P.
GABRIEL M. KRAUSMAN
SANDRA L. TOWNES
STEPHEN G. CRANE,JJ.

November 18, 2002

2001-08946
2002-02114

Alice Clissuras, Appellant, v Concord Village Owners, Inc., et al.,respondents

(Index No. 6067/91)

DECISION & ORDER

Alice Clissuras, Brooklyn, N.Y., appellant pro se.

Krez & Peisner, New York, N,Y. (Kathy Peisner of counsel), for respondents.

In an action, inter alia, to recover damages for personal injuries, the plaintiff appeals, as limited by her brief, from so much of (1) an order of the Supreme Court, Kings County (Jones,J.), dated April 23, 2001, as denied her motion, denominated as one to vacate prior orders of the same court dated November 28, 2000, and December 11, 2000, respectively, and granted that branch of defendants' cross motion which was to impose a sanction on the plaintiff pursuant to 22 NYCRR 130-1.1, and (2) an order of the same court dated August 27, 2001, as denied her motion denominated as one to vacate the order dated April 23, 2001.

ORDERED that the appeal from the order dated August 27, 2001, and the appeal from so much of the order dated April 23, 2001, as denied the plaintiff's motion to vacate the orders dated November 28, 2000, and December 11, 2000, respectively, are dismissed; and it is further,

ORDERED that so much of the order dated April 23, 2001, as granted that branch of the defendant's cross motion which was to impose a sanction pursuant to 22 NYCRR 130-1.1 is affirmed; and further,

ORDERED that one bill of costs is awarded to the respondents.

Although characterized as motions to vacate prior orders of the Supreme Court, the plaintiff's motions were, in fact, motions to reargue, the denial of which is not appealable (see Bossio v Fiorillo, 222 AD2d 476, 477).

The Supreme Court providently exercised its discretion in concluding that the plaintiff's conduct was frivolous within the meaning of 22 NYCRR 130-1.1 and imposing a sanction against the plaintiff in the form of costs incurred by the defendants in defending her repeated motions seeking the same relief (see Mancini v Mancini, 245 AD2d 518; Matter of Gordon v Marrone, 202 AD2d 104).

FLORIO, J.P., KRAUSMAN, TOWNES and CRANE, JJ., concur.

ENTER:
James Edward Pelzer
Clerk

tovember 18, 2002

CLISSURAS v CONCORD VILLAGE OWNERS, INC.

SUPREME COURT OF THE STATE OF NEW YORK

APPELLATE DIVISION:
SECOND JUDICIAL DEPARTMENT

5205m
C/mv

ANITA R. FLORIO,J.P.
GABRIEL M. KRAUSMAN
SANDRA L. TOWNES
STEPHEN G. CRANE,JJ.

2001-08946, 2002-02114

Alice Clissuras, appellant, v Concord Village Owners, Inc.,et al., respondents.

(Index No. 6067/91)

DECISION & ORDER ON MOTION

Motion by the the appellant, inter alia, in effect, for leave to reargue appeals from two orders of the Supreme Court, Kings County, dated April 23, 2001, and August 27, 2001, respectively, which were determined by decision and order of this court dated November 18, 2002.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied, with $100 costs.

FLORIO,J.P.,KRAUSMAN, TOWNES and CRANE, JJ, concur.

ENTER:

James Edward Pelzer
Clerk

January 27,2003

CLISSURAS v CONCORD VILLAGE OWNERS, INC.

SUPREME COURT OF THE STATE OF NEW YORK

APPELLATE DIVISION:
SECOND JUDICIAL DEPARTMENT

7261m
E/s1

ANITA R. FLORIO,J.P.
GABRIEL M. KRAUSMAN
SANDRA L. TOWNES
STEPHEN G. CRANE, JJ.

2001-08946, 2002-02114

Alice Clissuras, appellant, v Concord Village Owners,et al.,respondentS

(Index No. 6067/91)

DECISION & ORDER ON MOTION

Motion by the appellant, inter alia, in effect, for leave to reargue her motion, inter alia, in effect, for leave to reargue appeals from two orders of the Supreme Court, Kings County, dated April 23, 2001, and August 27, 2001, respectively, which were determined by decision and order of this court dated November 18, 2002, and cross application by the respondents, inter alia, to enjoin the appellant from making any further motions in this court without leave of this court.

Upon the papers filed in support of the motion and cross application, and the papers filed in opposition thereto, it is

ORDERED that the motion is denied with $100 costs; and it is further,

ORDERED that the branch of the cross application which is to enjoin the appellant from making any further

motions in this court without prior leave of this court is granted, and the appellant is enjoined from making any further motions or applications in connection with this appeal without the prior leave of this court, and it is further,

ORDERED that the cross application is otherwise denied.

FLORIO,J.P.,KRAUSMAN,TOWNES and CRANE,JJ., concur.

ENTER:

James Edward Pelzer

March 28,2003

CLISSURAS v CONCORD VILLAGE OWNERS, INC.

Appellate Division (718)875-1300
Supreme Court of the State of New York
Second Judicial Department
45 Monroe Place
Brooklyn, N.Y. 11201

JAMES EDWARD PELZER
Clerk of the Court

MEL HARRIS
SUSAN H. HARKAVY
ROBERT B. FALK
Deputy Clerks

MARY ELLEN SKENYON
Associate Deputy Clerk

Ms. Alice Clissuras
215 Adams Street
Brooklyn, NY 11201

January 8,2004

Re: Clissuras v Concord Village Owners Inc.
App.Div.Docket No.:2001-08946 & 2002-02114

Dear Ms. Clissuras:

We are returning your papers received here December 22, 2003. By decision and order of this court dated March 28, 2003, you were enjoined from making any further motions in connection with the above-entitled appeals without the prior permission of the court. The court declines to grant permission.

Yours truly,

CLERK'S OFFICE

Appellate Division
Supreme Court of the State of New York
Second Judicial Department
45 Monroe Place
Brooklyn, N.Y. 11201
(718)875-1300

JAMES EDWARD PELZER
Clerk of the Court

MEL E. HARRIS
SUSAN H. HARKAVY
MARY-ELLEN SKENYON
Deputy clerks

APRILANNE AGOSTINO
Associate Deputy Clerk

Ms. Alice Clissuras
215 Adams Street
Brooklyn, NY 11201

February 18,2004

Re:Clissuras v Concord Village Owners,Inc.
App.Div.DocketNo.:2001-08946 & 2002-02114

Dear Ms. Clissuras:

We are returning your papers received here February 13,2004. Pursuant to a decision and order of this court dated March 28,2003, a copy of which is enclosed, this court granted a cross application to enjoin you from making any further motions in this court without the prior leave of court. Consequently, the clerk's office cannot accept your papers sent here on January 8,2004, nor may the present motion papers be accepted for filing, as the prior leave of court has not been obtained.

You may, if you be so advised, write to the clerk of the court for permission to make a motion. A $45 fee is required before a motion can be accepted for filing.

Yours, truly,

CLERK'S OFFICE

cc:Krez & Peisner,
Esqs.

Appellate Division
Supreme Court of the State of New York
Second Judicial Department
45 Monroe Place
Brooklyn, N.Y. 11201
(718)875-1300

JAMES EDWARD PELZER
Clerk of the Court

MEL E. HARRIS
SUSAN H. HARKAVY
MARY-ELLEN SKENYON
Deputy clerks

APRILANNE AGOSTINO
Associate Deputy Clerk

Ms. Alice Clissuras
215 Adams Street
Brooklyn, NY 11201

February 23,2004

Re:Clissuras v Concord Village Owners Inc.
App. Div. Docket No.: 2001-08946

Dear Ms. Clissuras:

In response to your letter dated February 12,2004, please be advised that your motion which purportedly had a return date of December 22,2003, was rejected by this court. Consequently, there will be no determination forthcoming. There are no present open motions. As was stated by letter dated February 18,2004, you may request leave to make a motion by letter. Unless leave is granted, no motion papers will be accepted.

Yours truly,

/S/ Mary-Ellen Skenyon
MARY-ELLEN SKENYON
Deputy Clerk

file

At a JCP Part 1 of th Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse thereof, located at 360 Adams Street, Brooklyn, New York, on the 28th day of winter 2000.

PRESENT:

HONORABLE THEODORE JONES,

Justice

----------X

ALICE CLISSURAS,

Plaintiff,

-against-

CONCORD VILLAGE OWNERS, INC. and DOUGLAS ELLIMAN-GIBBONS & IVES, INC,.

Defendants,

----------X

Index No. 6067/91

ORDER

Assigned to:
Hon. Theodore Jones

Plaintiff pro se, ALICE CLISSURAS, having moved this Court for an Order dismissing defendants' Answer on grounds of nine years of default, for an Order granting restitution and relief for defendants' fraud and misrepresentations, and for an Order granting judgment by default for nine years of defendants' failure to serve a Verified Answer and for fraud, and,

Defendants, CONCORD VILLAGE OWNERS, INC. and DOUGLAS ELLIMAN-GIBBONS & IVES, INC., having cross moved for an Order enjoining plaintiff from litigating issues which had been already resolved by prior Court Orders and Appellate Decisions; an Order imposing meaningful sanctions on plaintiff for

re-litigating already-resolved issues, and defendant having opposed plaintiff's motion in its entirety.

Now, upon reading and filing the notice of motion by plaintiff dated May 5, 2000, with due proof of service thereof, the affirmation in support by plaintiff dated May 5, 2000, the reply papers submitted by plaintiff dated June 20, 2000, all having been duly submitted in support of plaintiff's motion, and each and every exhibit annexed thereto,

And, upon reading and filing the notice of cross motion by defendants, dated June 16, 2000, with due proof of service thereof, the Affirmation in Support of defendants' cross motion and in opposition to plaintiff's motion dated June 16, 2000, all having been duly submitted in support of said cross motion and in opposition to plaintiff's motion, and the exhibits annexed thereto,

And, oral argument having been made and heard,

And, a decision having been rendered from the bench on June 21, 2000, and recorded by an Official Court Reporter in a transcript, pages 1 through 16, annexed hereto,

IT IS ORDERED, that plaintiff's Motion is denied;

IT IS FURTHER ORDERED, that defendants' cross motion is granted to the extent that plaintiff is enjoined from bringing further action.

ENTER:

/S/

J. S. C.

HON. THEODORE T. JONES

At an IAS Term, Part 14 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse at Civic Center, Brooklyn, New York, on the 11th day of December, 2000

PRESENT:

HON. THEODORE T. JONES
Justice,

ALLICE CLISSURAS,
Plaintiff(s),

-against-

CONCORD VILLAGE OWNERS, INC., and DOUGLAS ELLIMAN-GIBBONS & IVES, INC.,
Defendant(s).

Index No. 6067/91

The following papers number 1 to 7 read on this motion:

	Papers Numbered
Notice of Motion/ Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed	1,2 3,4
Opposing Affidavits (Affirmations)	5,6
Reply Affidavits (Affirmations)	
(Affirmations)	
Other Papers	

Upon the foregoing papers, the motion by plaintiff pro se "for entry of [a] default judgment" is denied and the cross motion by defendants for an order, inter alia, imposing sanctions against plaintiff is granted only to the extent of

prohibiting plaintiff from relitigating issues raised in previous motions and cross motions.

In her motion, plaintiff asserts that defendants have not served an answer to the complaint despite the passage of nine years. Notwithstanding her request for entry of a default judgment, plaintiff maintains that "judgment by default was granted by the court...on March 19, 1991 in favor of the plaintiff." She also notes that in 1995 defendants moved to dismiss the complaint herein and that, by order dated December 5, 1995, the motion was granted and her own cross motion for leave to enter a default judgment was denied as moot. Plaintiff asserts that in January 1996 she moved to vacate the order of December 5, 1995 and that such motion "remains undetermined to date." She also alleges that on May 5, 2000 she moved "for [an]order granting judgment by default on the ground of nine years of fraud and failure to serve verified answer," that defendants subsequently cross moved for an order "enjoining plaintiff from re-litigating resolved issues and for sanctions" and that said motion and cross motion are likewise "undetermined."

In their cross motion and in opposition to the motion, defendants point out that on June 21, 2000 plaintiff was told after oral argument "in no uncertain terms that her motion was being denied and that [the] motion to enjoin her from bringing further action was granted." Defendants annex a copy of the transcript of oral argument and they request, among other things, "that this court sign and direct immediate entry of the June 21, 2000 order." A copy of the proposed order has been submitted

for the court's consideration.

In opposition to the cross motion, plaintiff suggests that she "is not arguing against the on-the-record decision of the court"(a reference to the decision of the court from the bench which on June 21, 2000 denied her prior motion, granted defendants' prior cross motion and directed defendants to "settle order on notice"); rather, plaintiff "is moving for an order determining plaintiff's May 5, 2000 motion for default and defendants' cross motion." Plaintiff seems to maintain that, in the absence of a written decision, the prior motion and cross motion are "undetermined."

It appears that, by order dated January 27, 1992, plaintiff's original motion for leave to enter a default judgment against defendants---the same relief she seeks here---was denied. That order was subsequently appealed to and affirmed by the Appellate Division, Second Department (see, Clissuras v Concord Village Owners, Inc., 210 AD2d 370). Thereafter, the Court of Appeals dismissed plaintiff's appeal (see Clissuras v Concord Village Owners, Inc. 85NY2d 1028), dismissed a motion for reconsideration (see Clissuras v Concord Village Owners, Inc., 86NY2d 881), and denied plaintiff's motion to vacate the order dismissing her appeal (see, Clissuras v Concord Village Owners, Inc., 87NY2d 1002).

Given the terms of the original order of January 27, 1992 and the subsequent appellate holdings summarized herein, this court has no alternative but to deny plaintiff's most recent motion (for the same relief) after oral argument on June 21, 2000 and to grant defendants' cross motion which addressed plaintiff's

refusal to accept prior orders of this and other courts regarding her request for entry of a default judgment.

Although plaintiff makes much of the fact that the court did not reduce its decision of June 21, 2000 to writing that issue need not be addressed. Contrary to 22 NYCRR 202.48(a), defendants did not submit their proposed order for settlement "within 60 days after signing and filing of the decision directing that the order be settled or submitted," nor have they shown good cause for a waiver of this rule (see 22 NYCRR 202.48(B). Accordingly, the prior cross motion is deemed abandoned.

Nevertheless, in light of the procedural history of this action, the relief requested by plaintiff in her instant motion is unwarranted, a previous motion for such relief having long ago been denied. Moreover, the instant cross motion by defendants is granted to the extent of prohibiting plaintiff from hereafter re-litigating the issues raised in the prior motions and cross motions.

Because plaintiff may have been confused by prior proceedings in this matter, the court will not impose financial sanctions which are sought by defendants. However, should plaintiff persist in unnecessary motion practice, future requests for sanctions will be entertained. Plaintiff is reminded that a litigant appearing pro se acquires no greater right than any other litigant and such appearance may not be used to deprive defendants of the same rights enjoyed by other defendants (see, Brooks v Inn at Saratoga, 188AD2d 921).

The foregoing constitutes the decision and order of the court.

E N T E R

/S/

J.S.C.

At an IAS Term, Part 14 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse at Civic Center, Brooklyn, New York, on the 23rd day of April, 2001

PRESENT:

HON. THEODORE T. JONES
Justice,

ALLICE CLISSURAS,
Plaintiff(s),

-against-

CONCORD VILLAGE OWNERS, INC., and DOUGLAS ELLIMAN-GIBBONS & IVES,INC.,
Defendant(s).

Index No. 6067/91

The following papers number 1 to 7 read on this motion:

Notice of Motion/ Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations)Annexed	Papers Numbered 1,2 3,4 5,6
Opposing Affidavits (Affirmations)	7
Reply Affidavits (Affirmations)	
____(Affirmations)	
Other Papers	

Upon the foregoing papers, the motions by plaintiff for an order vacating prior orders of this court, dated November 28, 2000 and December 11,2000, respectively, are in all respects, denied and the cross motion by defendants for an order, inter alia, imposing sanctions pursuant to

22NYCRR 130.1.1 is granted to the extent of directing plaintiff to pay to defendants' attorneys the sum of $1,000 within 30 days after service of this order with notice of entry.

In its order of December 11,2000, the court denied plaintiff's motion "for entry of [a]default judgment" and granted the cross motions of defendants to the extent of prohibiting plaintiff from relitigating issues raised in previous motions and cross motions. The order, which superceded one of November 28, 2000, also cautioned plaintiff, who is proceeding pro se, that should she persist in unnecessary motion practice, "future requests for sanctions will be entertained." The court noted that a motion by plaintiff for leave to enter a default judgment against defendants was denied by order dated January 27,1992. That order was subsequently appealed to and affirmed by the Appellate Division, Second Department. Following the affirmance, the Court of Appeals dismissed plaintiff's appeal, dismissed a motion for reconsideration and denied plaintiff's motion to vacate the order dismissing the appeal.

In her most recent motions, plaintiff "objects to any proposal by which a person is deprived of a right to bring further action," an apparent reference to this court's direction that plaintiff desist from attempting to relitigate the issues raised in the prior motions and cross motions, including but not limited to, the entry of a default judgment and the sufficiency of defendants' answer. Plaintiff continues to insist that "service of [an] answer seventeen months after the due date is prima facie

default," notwithstanding prior orders of this court and the Appellate Division permitting such service. She also maintains that [s]ervice of four answers, in seventeen months, is prima facie fraud."

In their cross motion, defendants request the imposition of "meaningful sanctions" and "injunctive relief against plaintiff's persistence in relitigating law-of-the-case."

In the course of the last decade, through extensive motion and appellate practice, plaintiff has tried without success to prevail on her claims (such as they may be) by securing a default judgment against defendants or by challenging the sufficiency of their answer. It is time for plaintiff to commence discovery on her remaining causes of action, although it is hard to imagine that path of pre-trial disclosure will be less torturous than what has come before. Since plaintiff seems to be unwilling to move on to other matters, at least without some impetus to do so, it is appropriate to impose monetary sanctions against her as a consequence of her persistance, frivolous conduct (see Luby v Carol Mgmt. Corp., 260 AD2d 27) Upon her failure to remit payment as directed herein, defendants may enter judgment accordingly.

The foregoing constitutes the decision and order of the court.

ENTER,

/S/

J.S.C.

HON. THEODORE T. JONES

At an IAS Term, Part 14 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse at Civic Center, Brooklyn, New York, on the 27th day of August, 2001

PRESENT:

HON. THEODORE T. JONES
Justice,

ALLICE CLISSURAS,
Plaintiff(s),

-against-

CONCORD VILLAGE OWNERS, INC., and DOUGLAS ELLIMAN-GIBBONS & IVES, INC.,
Defendant(s).

Index No. 6067/91

The following papers number 1 to 7 read on this motion:

	Papers Numbered
Notice of Motion/ Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed	1,2 3,4
Opposing Affidavits (Affirmations)	5
Reply Affidavits (Affirmations)	
(Affirmations)	
Other Papers	

Upon the foregoing papers, the motion by plaintiff for an order seeking, inter alia, to vacate a prior order herein, dated April 23, 2001, and the cross motion by defendants for an order seeking, inter alia, to dismiss plaintiff's complaint are,

in all respects, denied.

In its order of April 23, 2001, this court denied plaintiff's motion to vacate two prior orders and granted defendants' cross motion to the extent of directing plaintiff to pay $1000 to defendants' attorneys within 30 days after service of a copy of the order with notice of entry. The court noted therein that for almost ten years plaintiff has tried unsuccessfully to secure a default judgment against defendants. Despite extensive motion and appellate practice, she still persists. The instant motion raises no new issues and further reinforces the original decision to impose monetary sanctions, which have apparently not been paid. Accordingly, the motion by plaintiff is denied.

Defendants are understandably concerned by "plaintiff's persistence and unbriddled access to the Court and her utter disregard of all decisions and law of the case." Nevertheless, defendants' request that this court appoint a psychiatrist to evaluate plaintiff is inappropriate. Although defendants would have this court require plaintiff to post a bond, they cite no legal basis for such relief. Further, since an injunction has never been issued in this matter, there is no ground to conditionally cite plaintiff for contempt. Finally,defendants' request that plaintiff's remaining claims be dismissed for neglect to prosecute is denied without prejudice since they have not annexed a copy of a 90-day notice (to serve and file a note of issue)and affidavit of service of same to the cross motion.

Plaintiff is directed, in accordance

with the terms of the order dated April 23, 2001, to pay defendants' attorneys the sum of $1000 within 30 days after service of a copy of this order with notice of entry, In the event that such payment is not so remitted, defendants may enter judgment accordingly.

Plaintiff is once again cautioned to avoid unnecessay motion practice or additional requests for monetary sanctions shall be considered. In light of defendants' alleged service of a 90-day notice, plaintiff is advised to resume prosecution of this action.

The foregoing constitutes the decision and order of the court.

ENTER,

J.S.C.

/S/

HON. THEODORE T. JONES

At an IAS Term, Part 14 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 27th day of Jan. 1992

File No: 397398 SAA/bee

P R E S E N T :

HON. LEONARD E. YOSWEIN
Justice

----------X

ALICE CLISSURAS,

Plaintiff,

-against-

CONCORD VILLAGE OWNERS INC. AND DOUGLAS ELLIMAN-GIBBONS & IVES INC.

Defendants.

----------X

O R D E R

INDEX NO.: 6067/91

The plaintiff pro se having moved for an order granting judgment by default against the defendants on the ground that defendants failed to serve a properly verified answer pursuant to CPLR Sections 3012, 3020, 3021, 3022 and 3023: and having further moved for an order vacating an order by Justice Gerald S. Held recusing himself from participating in this matter and simultaneously vacating his prior Order granting a Protective Order; and further moving for a Protective Order relieving plaintiff from having to respond to defendants' demand for a bill of particulars, and said motions having duly come on to be heard before this court on July 3, 1991.

NOW, on reading and filing the Notices of Motion dated March 7, 1991 and May 30,

1991, the affirmations of Alice Clissuras dated March 7, 1919; May 30, 1991; June 13, 1991 and June 14, 1991, and exhibits thereto annexed with proof of due service, all submitted in support of said motion; and upon reading the affirmation of Stuart A. Apploff and Jules Finker, dated April 29, 1991 and June 4, 1991 respectively, and exhibits thereto annexed with proof of of due service, all submitted in opposition to plaintiff's motion, and after due deliberation having been had thereon, and upon the written decision of the Court dated August 22, 1991.

NOW, on motions by plaintiff pro se Alice Clissuras, it is,

ORDERED, that the said motions seeking default judgment against defendants, a vacating of the prior Order of Justice Gerald S. Held recusing himself, and a Protective Order relieving plaintiff from having to respond to defendants' demand for a bill of particulars are all denied pursuant to the decision of this Court dated August 22, 1991, a copy of which is annexed hereto, and further it is,

ORDERED, that plaintiff is directed to comply with defendants' demand for a bill of particulars within twenty (20) days after service of this Order with notice of entry, and further it is,

LEY plaintiffs motion for a protective order against further discovery is granted only to the extent JSC ORDERED, that all further discovery proceedings being sought by defendants are to be held in abeyance until plaintiff has had an opportunity to comply with the demand for a bill of particulars.

/S/ E N T E R LEY

J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

I.A.S. PART 14

INDEX NO. 6067/91

O R D E R

PRESENT:

HON. Leonard E. Yoswein

ALICE CLISSURAS

Plaintiff

CONCORD VILLAGE OWNERS, INC. and DOUGLAS ELLIMAN-GIBBONS & IVES INC.

Defendants

The following papers numbered 1 to 8 used on this motion

	Papers Numbered
No. 92 on Calendar of 11/7/91	
Notice of Motion Order to Show Cause - Affidavit (s)	1-3
Affirmation(s), Petition, and Exhibits Annexed	
Answering Affidavit(5) and Affirmation (5) and exhibits	4-5
Reply Affidavit(5) and Affirmation(5)	
Defendant's Affidavit(5) and Affirmation(5) labeled "reply"	6
Other Papers Plaintiff's 2nd reply affidavit & exhibits	7-8

Upon the foregoing papers

The plaintiff pro se has moved for reargument seeking to vacate a prior

decision of Justice Yoswein which vacated a prior default of the defendant or to compel the defendant to submit a properly verified answer.

Despite the lengthiness of the papers of both parties, the sole issue in dispute is whether the person who verified the answer of the defendant was legally empowered to do so. Defendant insists that this person was, but has provided no proof. Plaintiff has provided evidence that this person is not legally authorized to do so. Plaintiff further properly contends that she would be prejudiced by having an improperly verified answer which would deprive her of the knowledge of the veracity of the statements made within that answer.

Consequently, in the absence of indisputable proof that defendant's assistant secretary, Howard Goldberg, is legally authorized to verify the defendant's answer, the defendant, within twenty days of a receipt of this court's order, is to submit a newly verified answer by someone else combined with proof that the verification signed by that person has authority to do so.

E N T E R,

/S/

Hon. Leonard E. Yoswein.
J.S.C.

Dated:
Brooklyn, New York
February 19, 1992

At an I.A.S.Trial Term, Part of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 17th day of July 1992

P R E S E N T:

Hon. Leonard E. Yoswein
Justice

ALICE CLISSURAS,

Plaintiff(s)

-against-

CONCORD VILLAGE OWNERS, INC., & DOUGLAS ELLIMAN-GIBBONS & IVES, INC.

Defendant(s)

Cal. No. 62 & 86 of 7/16

Index No. 6067/91

The following papers numbered 1 to 7 read on this motion	Papers Numbered
Notice of Motion-Order to Show Cause Affidavits (Affirmations)Annexed	1-3
Answering Affidavit (Affirmation) notice of cross-motion & exhibits	4-6
Reply Affidavit(Affirmation) and opposition of cross-motion	7
Affidavit (Affirmation)	
Pleadings-Exhibits	
Stipulation-Minutes	
Filed Papers	

and upon oral argument on the record

before this court on the 17th day of July, 1992, it is hereby

Ordered, that the motion and cross-motion are both denied in their entirety.

E N T E R

/S/

J.S.C

Hon. LEONARD E. YOSWEIN

(VERIFICATION TO FIRST ANSWER: BLANK)

File No. 397298 K76 NC/yb

CORPORATE VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

x_____, being duly sworn, deposes and says that deponent is the x_____ of CONCORD VILLAGE OWNERS, INC., the corporation named and one of the defendants in the within action; that deponent has read the foregoing Answer and knows the contents thereof; and that the same is true to deponent,s own knowledge, except as to the the matters therein stated to be alleged upon information and belief, and is a domestic corporation. Deponent is an officer thereof, to-wit its x_____.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: contents of file maintained in the office.

x_____

Sworn to before me this
day , 1991.

_____

Notary Public

(VERIFICATION TO THE SECOND ANSWER)

File No. 397398 K76 NC/yb

CORPORATE VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

x Howard Goldberg, being duly sworn, and says that deponent is the x management Executive of CONCORD VILLAGE OWNERS, INC., the corporation named and one of the defendants in the within action; that deponent has read the foregoing Answer and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and is a domestic corporation. Deponent is an officer thereof, to-wit x Assistant Secretary.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: contents of file maintained in the office.

x Howard Goldberg

Sworn to before me this
1st day of march, 1991.

Virginia M Cashman
Notary Public

Virginia M. Cashman
Notary Public, State of New York
No. 24-4360110
Qualified in Kings County
Commission Expires May 12, 1992

(VERIFICATION TO THIRD ANSWER)
File No. 397398 K76 SAA/yb

CORPORATE VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

MICHAEL C. COTTER, being duly sworn, deposes and says: That deponent is the president of CONCORD VILLAGE OWNERS,INC. the corporation named and one of the defendants in the within action; that deponent has read the foregoing Answer to Verified Conplaint and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and is a domestic corporation. Deponent is an officer thereof, to-wit its President.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: contents of file maintained in the office.

x Michael C. Cotter
MICHAEL C. COTTER

Sworn to before me this
3rd day of March, , 1992

Howard Godberg
Notary Public

HOWARD GODBERG
Notary Public, State of New York
No. 31-4802076
Qualified in New York County
Commission Expires March 30, 1992

(VERIFICATION TO FOURTH ANSWER)

File No. 397398 K76

CORPORATE VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

MICHAEL C. COTTER, being duly sworn, deposes and says that deponent is the President of CONCORD VILLAGE OWNERS, INC., the corporation named in the within action; that deponent has read the foregoing Answer to Verified Complaint and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes them to be true. This verification is made by deponent because CONCORD VILLAGE OWNERS INC. is a domestic corporation. Deponent is an officer therof, to-wit its President. The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: contents of file in the office.

Michael C. Cotter

MICHAEL C. COTTER

Sworn to before me this
21 day of July , 1992

Howard Goldberg

NOTARY PUBLIC

HOWARD GOLDBERG
Notary Public, State of New York
No. 31-4802076
Qualified in New York County
Commission Expires March 30, 1992

(2)

No. 04-447

Supreme Court, U.S.
FILED
DEC 30 2004
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

ALICE CLISSURAS,

Petitioner,

v.

CONCORD VILLAGE OWNERS INC. and
DOUGLAS ELLIMAN-GIBBONS & IVES INC.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF THE
STATE OF NEW YORK

PETITION FOR REHEARING OF ORDER DENYING AND FOR DETERMINATION OF APPELLANTS' PETITION FOR WRIT OF CERTIORARI

ALICE CLISSURAS
Petitioner pro se
215 Adams Street
Brooklyn, NY 11201
(718)875-6171

REASONS FOR REHEARING OF ORDER DENYING AND FOR DETERMINING OF APPELLANT'S PETITION FOR WRIT OF CERTIORARI

1. The Orders of Kings County (4) are void due to inter alia, failure of the Trial Court to determine plaintiff's Motions to Dismiss the Defendants for failure to respond to and defend against plaintiff's prima facie complaint with four causes of action. (App. for Writ, A.12-24)

2. The Orders of the Appellate Division, Second Department, are void and should not be allowed to stand due to, inter alia, failure to determine plaintiff's Appeals and Motions to Vacate and due to failure to address and correct the manifest errors of Kings County. (App. for Writ, A.4-11)

3. The Orders of the Court of Appeals should not be allowed to stand

due to, inter alia, failure to determine plaintiff's appeals and motions and due to failure to address and correct the manifest errors of the Appellate Division, 2d. (App. for Writ, A.1-3)

4. The Order of this Court is void due to, inter alia, absence of detemination of Petitioner's request for Writ of Certiorari to the Court of Appeals and the absence of correction of manifest errors of the Court of Appeals. (Appendix attached hereto, A.1)

ALL PARTIES AND THEIR ATTORNEYS

For Plaintiff-Appellant:

ALICE CLISSURAS
Petitioner pro se
215 Adams Street
Brooklyn, NY 11201
(718)875-6171

J.D. Degree, no license

N.Y.S. Ct. of Ap., Mo.No.423(2004)

App.Div.2d, Case Nos. 2001-08946, 2002-02114

Kings Co. Clerk's Index No.6067/91

For Defendants-Respondents:

KREZ & PEISNER
Attorneys for Respondents, Concord Village Owners Inc. and Douglas Elliman-Gibbons & Ives Inc.
Kathi Peisner, Esq.
225 Broadway
New York, NY 10007
(212)964-5000

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No. 04-447

IN THE

SUPREME COURT OF THE UNITED STATES

ALICE CLISSURAS, Mo.No.423(2004), v.
CONCORD VILLAGE OWNERS INC. and
DOUGLAS ELLIMAN-GIBBONS & IVES INC.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF THE
STATE OF NEW YORK

PETITION FOR REHEARING OF ORDER DENYING AND FOR DETERMINATION OF APPELLANT'S PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE, THE CHIEF JUSTICE and
ASSOCIATE JUSTICES OF THE SUPREME COURT
OF THE UNITED STATES:

Alice Clissuras (AC), petitioner pro se, in this proceeding, respectfully petitions the Court for rehearing and determining of Order entered December 6, 2004, denying Appellant's Petition for Writ of Certiorari to the Court of Appeals of the State of New York. (A.1, attached hereto.)

Petitioner makes this request for reconsideration and determination of Petitioner's Request for Writ, as of right, on grounds that from the inception of plaintiff's case, fourteen years ago, the defendants, Concord Village and Douglas Elliman, have not: answered, responded to, or argued against plaintiff's prima facie Complaint, by which a complete case for bodily injury, property damage, harassment, and breach of fiducial duty, is presented.

Plaintiff has tendered evidence and argued the causes sufficiently to make a prima facie showing of entitlement to judgment as a matter of law. The total absence of response on the part of defendants clearly exhibits defendants' admission of default and the absence of any material issues of fact.

The only argument the defendants have made or make is something to the

effect that, no matter what plaintiff is moving or appealing: it was decided earlier, plaintiff's request is frivolous, plaintiff should be sanctioned, and the cause is dismissed or denied.

Defendants do not identify what was decided earlier and do not argue the issues because there is no earlier decision and defendants do not have any argument to make against plaintiff's case.

The Courts overlook the failure of defendants to respond to plaintiff's prima facie Complaint and evidence, the failure to serve a duly verified answer in fourteen years, and the failure to argue and respond to plaintiff's Motions and Appeals.

The unlawful taking of plaintiff's due process, equal protection, and trial rights is clearly visible in the papers used for the instant appeal.

Kings County denied four Motions due to non-existent earlier decisions, imposed sanctions without grounds, and did not determine plaintiff's Motions for Dismissal of Defendants. (App. to Petition for Writ, A.12-24)

On Appeal, Appellate Division, 2d, dismissed the appeal by converting plaintiff's Motions to Vacate to Motions for Reargument, without grounds, to make them unappealable; by imposing sanctions without stated cause; and by not determining plaintiff's Appeal and Motion to Vacate. (App. to Petition for Writ, A.4-11.)

On Appeal, the Court of Appeals, of the State of New York, dismissed Appellant's Appeal from Appellate Division, 2d, as untimely, without stated cause; dismissed Court Orders contained in Court letters as unappealable, without stated cause, and did not determine

Appellant's Appeal and Motion to Vacate. (App. to Petition for Writ, A.1-3)

Plaintiff has been unjustly deprived of rights pursuant to U. S. Constitution, Amendments V and XIV for due process and equal protection of the laws and Amendment VII for right to trial.

Similarly, plaintiff has been unjustly deprived of rights pursuant to N. Y. Constitution, in relevant parts:

> Art.I-§1 [Equal rights to all citizens.] No member of this state shall be disenfranchised, or deprived of the rights or privileges secured to any citizen thereof,....
>
> Art.I-§2 [Right to trial by jury;] Trial by jury in all cases in which it has heretofore been guaranteed by constitutional provision shall remain inviolate forever;....
>
> Art.I-§11 [Equal protection of laws] No person shall be denied the equal protection of the laws of this state or any subdivision thereof.

The violations of the Constitutions and the Laws have continued nonstop from the making of this case, to present.

REASONS FOR REHEARING, DETERMINING, AND VACATING ORDER DENYING PETITION FOR WRIT OF CERTIORARI

Petitioner, Alice Clissuras, requests rehearing and determination of the December 6, 2004, Order, denying Appellant's Petition for Writ of Certiorari for the following additional reasons:

(1) That plaintiff's case against Concord Village and Douglas Elliman is not in the Court computers and is not docketed. Kings County, Appellate Division, Court of Appeals, and this Court have not produced a docket.

(2) That not one Court, with the exception of Kings County, has issued a signed order.

(3) That not one Court has made a statement or made any findings of fact or of law of its decision of an Appeal or of a Motion and the reasons for it.

(4) That the defendants have not asserted that issue has been joined; have not countered plaintiff's case for default; and have not produced a shred of controverting evidence.

(5) That plaintiff's Motions to Kings County for judgment by default remain undetermined, to present.

(6) That plaintiff's appeals to Appellate Division, Court of Appeals, and this Court, remain undetermined to present.

(7) That the Courts overlook defendants' default, defendants' failure to respond, and defendants' violations of the laws.

As a result of not determining: plaintiff's Motions to Kings County; appellant's Appeals and Motions to Appellate Division and Court of Appeals; and Petitioner's Petition for Writ of

Certiorari, the Motions, Appeals, and Petition are all open and must be determined before any dismissals of Appeals can lawfully be made.

As a result of overlooking defendants' violations of the laws, all of the Orders are void, by manifest errors of all of the Courts; and

As a result of defendants' failure to respond to plaintiff's prima facie case and evidence, the defendants are in default and have been since 20 days after the service of the Complaint in February of 1991, without joinder of issue and without the right to continue in this action, by law.

Thus, the Orders issued, in this case, are unenforceable. There can be no enforcement, by law, since there is no law which can be used to shield wrongdoers.

As to all of the above, it is clear that justice has not been served or even considered. Kings County issued void and unenforceable orders, which Appellate Division, 2d, should have corrected. However, Appellate Division, 2d, made the same errors, which should then have been corrected by Court of Appeals. However Court of Appeals also issued open, void, and unenforceable orders.

Petitioner respectfully requests this Court's supervisory power to correct the manifest and plain errors of the above Courts, which errors are beyond the jurisdiction of the Courts. (Supreme Court Rule 10)

Petitioner requests a Court statement informing Petitioner of the status of her case.

And, petitioner requests judgment by default against the defendants, on the law.

Lest any one think that petitioner is repetitious in argument, in order for reargument to be sanctionable, a **decided** matter with specific evidentiary support must be identified. In this case petitioner is seeking decisions.

Lest any one think that petitioner is causing delays, look to those who have not answered for 14 years, and who have abused petitioner for 14 years.

Petitioner respectfully requests grant of the Petition for Writ and requests a well deserved and well earned judgment by default against defendants.

Respectfully submitted,

ALICE CLISSURAS
Petitioner, pro se
215 Adams Street
Brooklyn, NY 11201
(718)875-6171

Supreme Court of the United States
Office of the Clerk
Washington, DC 205-43-0001

William K. Suter
Clerk of the Court
(202)479-3011

December 6, 2004

Ms. Alice Clissuras
215 Adams Street
Brooklyn, NY 11201

Re: Alice Clissuras
v. Concord Village Owners, Inc, et al.
No. 04-447

Dear Ms. Clissuras:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter
(Stamped)

William K. Suter, Clerk

SUPREME COURT OF THE UNITED STATES

No. 04-361

Alice Clissuras, Petitioner

v.

Concord Village Owners Inc. and
Douglas Elliman-Gibbons & Ives Inc.,
Respondents

CERTIFICATION OF PETITIONER

Petitioner, Alice Clissuras, pro se, certifies that the Petition for Rehearing to which this Certification is bound is restricted to the grounds specified in Supreme Court Rule 44 and that it is presented in good faith without any intent of delay.

Petitioner seeks determination of the issues. Any delays that occur can be attributed to those who do not respond.

_____

ALICE CLISSURAS
Petitioner pro se